

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 460 of 1994

For Approval and Signature:

Hon'ble MR.JUSTICE S.K.KESHOTE

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

HAMENDRABHAI KANTILAL SHAH

Versus

PRINCIPAL, MANINAGAR SCIENCE COLLEGE

Appearance:

MR PK PANCHOLI for Petitioner

MR SK JHAVERI for Respondent No. 1

SMT SIDDHI TALATI for Respondents No. 2, 3

CORAM : MR.JUSTICE S.K.KESHOTE

Date of decision: 09/09/97

ORAL JUDGEMENT

1. The petitioner, a retired Lecturer of Maninagar Science College, Ahmedabad, filed this special civil application and prayer has been made for quashing and setting aside of the order dated 31st May, 1993 and for declaration that the petitioner is entitled to get the benefit of notional service and notional increments upto 15-6-1998 and further declaration that he is entitled for

the benefit of pension considering the qualifying service of the petitioner of 33 years.

2. There is no dispute that there was a break in service of the petitioner for the period from 15-6-1964 to 14-6-1965. The petitioner sought his voluntary retirement and his qualifying services were considered for the pension to be actual services which he rendered from 15-6-1965 till the date of retirement with five years notional benefit. What the petitioner is praying in fact that his services for the period from 15-6-1964 to 14-6-1965 has to be taken into consideration for qualifying services, but the learned counsel for the petitioner has failed to produce on record any order of the respondent under which the aforesaid break in his service has been condoned. When the break in service of the petitioner has not been condoned then it could not have been taken into consideration for qualifying services. The petitioner has voluntarily resigned from services. It was a case where then he was given the fresh appointment. So the respondents have not committed any illegality in case for the purpose of fixing of his pension and other retirement benefits they have taken his qualifying services from 15th June, 1965.

3. In the result, this special civil application fails and the same is dismissed. Rule discharged. Interim relief, if any, granted by this Court stands vacated.

zgs/-